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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101-3140

MAR 28 2018

OFFICE OF  
COMPLIANCE AND ENFORCEMENT

Reply To: OCE-101

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**NOTICE OF VIOLATION**

Mr. Lynn Babington  
Hatchery Owner  
ARK Fisheries, Inc.  
1107 East 2900 South  
Hagerman, Idaho 83332

Re: Irish Ponds  
NPDES Permit Number IDG130102

Dear Mr. Babington:

On behalf of the U.S. Environmental Protection Agency (EPA), I would like to express my appreciation for your time and cooperation during the January 17, 2018, Clean Water Act (CWA) inspection of Cox Farm ("Facility") by the Idaho Department of Environmental Quality (IDEQ) on behalf of EPA. The purpose of the inspection, and subsequent EPA administrative file review including DMRs submitted by the Facility, was to determine the Facility's compliance with the requirements of the Clean Water Act (CWA) and the National Pollutant Discharge Elimination System (NPDES) general permit IDG130000 ("Permit") for *Aquaculture Facilities in Idaho, subject to Wasteload Allocations under Selected Total Maximum Daily Loads*. The purpose of this letter is to notify you of the results of the IDEQ inspection and EPA administrative file review.

**ADMINISTRATIVE FILE REVIEW**

Part V.B of the Permit states, in part, "The permittee must summarize monitoring results, including influent, effluent, and net results, each month on the Discharge Monitoring Report (DMR) form (EPA No. 3320-1) or equivalent. The permittee must submit reports monthly, postmarked by the 20th day of the following month."

Upon review of DMR data from March 2013 through March 2018, EPA found that the Facility failed to submit 6 DMRs. Failure to submit complete DMRs by the due date is a violation of Part V.B of the Permit. These violations are shown below.

ICIS  
4/9/18  
Jm

If monitoring is not required for a particular monitoring period please be sure submit those DMRs using the no data indicator (NODI) of, "9 Conditional Monitoring – not required this period" in the NetDMR reporting tool.

Monitoring Period	Parameter or Limit Set	Due	Received
June 2017	CNH-1 Cold Pond Harvest	July 20, 2017	Not received
May 2017	CPH-1 Cold Pond non-harvest	June 20, 2017	Not received
April 2017	CPH-1 Cold Pond non-harvest	May 20, 2017	Not received
March 2017	CNH-1 Cold Pond Harvest	April 20, 2017	Not received
February 2017	CNH-1 Cold Pond Harvest	March 20, 2017	Not received
January 2017	CNH-1 Cold Pond Harvest	February 20, 2017	Not received

### **JANUARY 2018 INSPECTION**

1. Part II.F of the Permit states, in part, "The permittee must develop a quality assurance (QA) plan for all monitoring required by this permit. The plan must be developed and implemented within 60 days of coverage under this permit. Any existing QA Plans may be modified to meet this requirement. A permittee must certify that a QA Plan has been developed and is being implemented and must submit the certification, which includes the information specified in Appendix F, to EPA and to the responsible IDEQ office (§I.C.1, above) within 90 days of the effective date of this permit..." Part II.F.2 of the Permit states, "Throughout all sample collection and analysis activities, the permittee must use the EPA-approved quality assurance and quality control (QA/QC) and chain-of-custody procedures described in Requirements for Quality Assurance Project Plans (EPA/QA/R-5) and Guidance for Quality Assurance Project Plans (EPA/QA/G-5). The QA Plan must be prepared in the format that is specified in these documents." Part II.F.3 of the permit states, in part, "At a minimum, the QA Plan must include the following: Details on the number of samples, type of sample containers, preservation of samples including temperature requirements, holding times, analytical methods, analytical detection and quantification limits for each parameter, type and number of quality assurance field samples, precision and accuracy requirements, sample preparation requirements, sample shipping methods, and laboratory data delivery requirements. See Parts V.A.-F for additional requirements..."

At the time of the inspection, the inspector found the Facility's QA Plan had not been developed and implemented within 60 days of Permit coverage and had not been certified within 90 days of Permit coverage. Failing to develop, implement, and certify a QA plan within the required timeframe is a violation of Part II.F of the permit. The inspector also found the QA plan was not in the required format and failed to include updated water quality testing laboratory information, calibration procedures, details on the number of samples, type of sample containers, type and number of quality assurance field samples, precision and accuracy requirements, map(s) of sampling points, and receiving water sampling locations with justification. Failure to develop, implement, and certify a QA plan in the required format, containing all the required parts, is a violation of Parts II.F.2 and II.F.3 of the Permit.

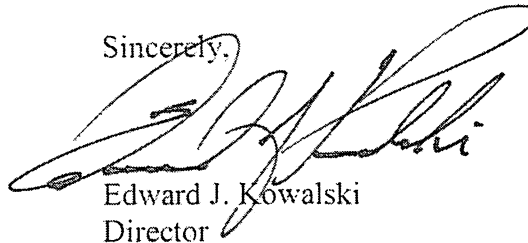
2. Part III.B of the Permit states, in part, "The permittee must develop and implement a BMP Plan which meets the specific requirements listed in Part III.E, below. An existing BMP Plan may be modified for use under this section. The permittee must implement the provisions of the BMP Plan as conditions of this permit within 90 days of authorization to discharge under this permit." Part III.C of the permit states, in part, "A permittee must certify that a BMP Plan has been developed and is being implemented, and must submit the certification, which includes the information specified in Appendix F, to EPA and to the responsible IDEQ office (§I.C.1, above). An existing permittee must submit the certification within 90 days of the effective date of this permit..."

At the time of the inspection, the inspector found the facilities Best Management Practices Plan (BMP) had not been developed, certified, or implemented within 90 days of the authorization to discharge. Failure to develop, certify, and implement a BMP plan within the required timeframe is a violation of parts III.B and parts III.C of the permit.

Although our goal is to ensure NPDES facilities comply fully with their permits, the ultimate responsibility rests with the permittee. As such, I want to strongly encourage you to continue your efforts to maintain full knowledge of the Permit requirements, and other appropriate statutes, and to take appropriate measures to ensure compliance. Notwithstanding your response to this letter, EPA retains all rights to pursue enforcement actions to address these and any other violations.

If you have any questions concerning this matter, please do not hesitate to contact Jason Rodriguez of my staff at (206) 553-8508.

Sincerely,

A handwritten signature in black ink, appearing to read "E. J. Kowalski", written over a horizontal line.

Edward J. Kowalski  
Director

cc: Mr. Tyler Fortunati  
Idaho Department of Environmental Quality

Mr. David Anderson  
Idaho Department of Environmental Quality

Ms. Maria Lopez  
Environmental Protection Agency

When complete email this form & enclosures to R10OCEAdminTeam@epa.gov

**Office of Compliance and Enforcement  
CORRESPONDENCE ACTION REQUEST**

**AUTHOR:** Jason Rodriguez **DATE SUBMITTED:** 3/26/18 **SECRETARY:** CT 3/26/18

**ACTIONS NEEDED:** Proof, format, concurrence, and mail upon return

**DEADLINE FOR MAILING:**

**CERTIFIED  
MAIL:**

YES

**OVERNIGHT  
MAIL:**

NO

**SPECIAL INSTRUCTIONS:**

Send Notification of Dissemination to J. Rodriguez Only

**SIGNER:** Ed Kowalski

X

**FILE NAME (including PATH):** N:\APPS\OCE\Water & Wetlands Enf  
Unit\Rodriguez\b\_Informal\Aqua\IDG130102 Irish Ponds\IDG130102 Irish Farms (NOV)  
032118.docx

**CONCURRENCES**

Who	J. Rodriguez	J. KenKnight				
Initials	JR	JK				
Date:	3/27/18	3/27/18				

**ADDITIONAL DISTRIBUTION:**

Include mailing addresses and/or email for all cc's and bcc's here

**Cc:**

✓ Mr. Tyler Fortunati  
IDEQ, Compliance, Inspection and Enforcement Lead  
tyler.fortunati@deq.idaho.gov

✓ Mr. Dave Anderson  
IDEQ, Twin Falls Regional Administrator  
david.anderson@deq.idaho.gov

✓ Ms. Maria Lopez  
EPA, Idaho Operations Office  
lopez.maria@epa.gov

**E-MAIL ADDRESS:**  
(Optional)


**WHERE TO FILE:**

**Official/Program: X**  
**Chrono: X**

**Other:**

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## Thompson, Cesley

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**From:** Rodriguez, Jason  
**Sent:** Monday, March 26, 2018 8:25 AM  
**To:** R10OCEAdminTeam  
**Subject:** CAR  
**Attachments:** CAR\_Correspondence Action Request IDG130102.doc

Thank you and have a great week!  
-Jason



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Jason Rodriguez | Office of Compliance and Enforcement | Water and Wetlands Unit  
U.S. Environmental Protection Agency | Region 10  
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